

NOV and Attachment, and the compensation database that Oracle provided to OFCCP for the 2014 snapshot. OFCCP further responds that during the compliance review of Oracle headquarters, OFCCP evaluated and analyzed Oracle's compensation information and evidence gathered in the investigation and found statistically significant pay disparities based upon race between Asians and Whites after controlling for legitimate explanatory factors. Within this line of business, OFCCP controlled for the following factors: job title, full-time/part-time status, exempt status, global career level, job specialty, estimated prior work experience, and work experience at Oracle. Even after controlling for such factors in the analysis, Asian employees were paid significantly less than White employees in the Product Development line of business. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

INTERROGATORY NO. 13:

Identify by name and last known contact information each PERSON with knowledge of the facts alleged in Paragraph 9 of the Amended Complaint, including the nature of the facts of which the PERSON identified has knowledge.

RESPONSE:

OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects to the Interrogatory on the basis that it is compound, vague and ambiguous as to "nature of the facts," "knowledge of the facts," and "contact information." "Nature of facts" is so unintelligible that it is unclear what Oracle is seeking. For example, is nature of the facts the date the person acquired the facts, how he acquired the facts, who he acquired the facts from, the contents of the facts, when the facts occurred, who observed or witnessed the facts, etc. In terms of knowledge of the facts: it is not known if Oracle was referring to personal knowledge, constructive knowledge, third-hand knowledge, hearsay knowledge, etc. It is not clear what Oracle means by contact information, is it a person home telephone number, is it a person's business address, etc.

OFCCP also objects to the Interrogatory as being unduly burdensome, overly broad, not relevant, oppressive and not proportional to the case because for OFCCP to truly answer this Interrogatory, OFCCP would need to literally interview thousands of Oracle employees to include employees in supervisory and management positions to ascertain everyone who has knowledge of the discrimination.

OFCCP again objects to the Interrogatory as being unduly burdensome, overly broad, not relevant, oppressive and not proportional to the case for OFCCP to interview potentially thousands of employees to obtain their last known contact information when Oracle is already in possession of this information.

OFCCP still further objects because the interrogatory calls for speculation if Oracle does not make everyone available to OFCCP everyone who might have knowledge of the discrimination so that OFCCP can identify all of the people who have knowledge of the discrimination.

OFCCP objects to this Interrogatory as overly overbroad, unduly burdensome, oppressive, not relevant, and not proportional to the needs of the case with respect to the term "all facts" if the nature of the facts includes every fact, however, minor that the person knows regardless of how the person obtained knowledge of the alleged fact.

OFCCP objects to this interrogatory as it is making two distinct information requests in one interrogatory – identify the name, job title and contact information of the person with knowledge, and the content/nature of this knowledge. OFCCP will count this as two interrogatories.

To the extent that the following objection that Defendant used during written discovery is a valid objection since the parties are meeting and conferring about it: the request/Interrogatory “requires [the party answering the written discovery] to refer to materials outside of the request itself,” OFCCP makes this objection here because this Interrogatory referred to materials outside of the Interrogatory itself.

OFCCP further objects to the Interrogatory to the extent it seeks each individual’s contact information on the grounds of the Privacy Act and that they are represented by counsel. OFCCP’s personnel (current or former) may be contacted through OFCCP’s counsel at the Office of the Solicitor.

Subject to and without waiving the foregoing objections, OFCCP responds that the following persons, excluding OFCCP attorneys at the Office of the Solicitor, may have knowledge of the facts giving rise to the allegations made in the Amended Complaint include: Oracle employees, supervisors and managers employed by Oracle during the review period; former employees, supervisors and managers of Oracle; and OFCCP personnel listed in response to Interrogatory No. 1. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

INTERROGATORY NO. 14:

As to each Asian allegedly discriminated against as referenced in Paragraph 9 of the Amended Complaint, identify by name and job title the comparable White or Whites employed in similar roles.

RESPONSE:

OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. *See* cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information responsive only to a fraction of OFCCP's discovery requests. Furthermore, OFCCP objects to this premature Interrogatory because Oracle is attempting to benefit from its unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP's ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data

for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

To the extent that the following objection that Defendant used during written discovery is a valid objection since the parties are meeting and conferring about it: the request/Interrogatory "requires [the party answering the written discovery] to refer to materials outside of the request itself," OFCCP makes this objection here because this Interrogatory referred to materials outside of the Interrogatory itself.

Subject to and without waiving the foregoing objections, OFCCP incorporates herein its responses to Interrogatory Nos. 2 and 12, its statements in the Amended Complaint and refers Oracle to the responsive documents that it produced during discovery, including, but not limited to, the NOV and Attachment, and the compensation database that Oracle provided to OFCCP for the 2014 snapshot. The compensation database provided to OFCCP by Oracle lists the names of White employees in the Information Technology, Support, and Product Development lines of business, as well as their job titles that OFCCP alleges were comparable White employees in similar roles to Asian employees based on the snapshot of data Oracle provided as of January 1, 2014. The compensation database provided to OFCCP by Oracle also lists the names of Asians in the Product Development line of business, as well as their job titles that OFCCP alleges were victims of discrimination based on the snapshot of data Oracle provided as of January 1, 2014. As more data is produced, including data from 2013 and since the snapshot from January 1, 2014, through the present, OFCCP expects that additional Whites, as well

Asian victims of discrimination, will be identified. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

INTERROGATORY NO. 15:

For each qualified Asian allegedly discriminated against as referenced in Paragraph 9 of the Amended Complaint, state all facts that support the allegation that the White employee(s) identified as similarly situated and comparable were similarly situated and comparable.

RESPONSE:

OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. *See* cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information

responsive only to a fraction of OFCCP's discovery requests. Furthermore, OFCCP objects to this premature Interrogatory because Oracle is attempting to benefit from its unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP's ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

OFCCP objects to this Interrogatory as overly overbroad, unduly burdensome, oppressive, not relevant, and not proportional to the needs of the case with respect to the term "all facts" because this term is not confined to the principal or material facts of the case, but seeks the identity of each and every fact, however minor, that may relate to the case.

To the extent that the following objection that Defendant used during written discovery is a valid objection since the parties are meeting and conferring about it: the request/Interrogatory "requires [the party answering the written discovery] to refer to materials outside of the request itself," OFCCP makes this objection here because this Interrogatory referred to materials outside of the Interrogatory itself.

Subject to and without waiving the foregoing objections, OFCCP incorporates herein its responses to Interrogatory Nos. 2, 12 and 14, its statements in the Amended Complaint and refers Oracle to the responsive documents that it produced during discovery, including, but not limited to, the NOV and Attachment, and the compensation database that Oracle provided to OFCCP for the 2014 snapshot. The compensation database provided to OFCCP by Oracle lists the names of White employees in the Information Technology, Support, and Product Development lines of business, as well as their job titles that OFCCP alleges were comparable White employees in similar roles to Asian employees based on the snapshot of data Oracle provided as of January 1, 2014. The compensation database provided to OFCCP by Oracle also lists the names of Asians in the Product Development line of business, as well as their job titles that OFCCP alleges were victims of discrimination based on the snapshot of data Oracle provided as of January 1, 2014. OFCCP further responds that it determined which roles were similar by reviewing evidence gathered during the compliance review. As more data is produced, including data from 2013 and since the snapshot from January 1, 2014, through the present, OFCCP expects that additional Whites, as well Asian victims of discrimination, will be identified. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

INTERROGATORY NO. 16:

State all facts that support the allegation contained in Paragraph 9 of the Amended Complaint that there was a standard deviation of -6.55, including the statistical data used, the analysis and methodologies used, and the computations used to determine the standard deviations.

RESPONSE:

OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege,

OFCCP'S OBJECTIONS AND ANSWERS TO DEFENDANT ORACLE AMERICA, INC.'S
INTERROGATORIES, SET ONE (AS AMENDED)
(OALJ CASE NO. 2017-OFC-00006)

attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this Interrogatory to the extent it implies that OFCCP was required to allege statistical data. Statistical data supporting OFCCP's claims of discrimination will be developed and refined, during and after discovery. Tying OFCCP to a particular set of statistics at the pleading stage would be both unfair and inefficient.⁶ The time for assessing OFCCP's statistical evidence, including whether it accounts for all relevant variables, is after discovery has closed and the case is tried.⁷ Further, it is impossible for OFCCP to make any refinements to statistics in this case until Defendants produce the myriad relevant records they refused to provide to OFCCP and have not yet provided in discovery.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. *See* cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information responsive only to a fraction of OFCCP's discovery requests. Furthermore, OFCCP objects to

⁶ *See Jenkins*, 646 F.Supp.2d 469 ("It would be inappropriate to require a plaintiff to produce statistics to support her disparate impact claim before the plaintiff has had the benefit of discovery").

⁷ *See Barrett*, 39 F.Supp.3d 430.

this premature Interrogatory because Oracle is attempting to benefit from its unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP's ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

OFCCP likewise objects to the terms "statistical data used," "the analysis and methodologies used," the computations used." For these latter three terms the context of "used" it is not known and it is not clear which "statistical data," "analysis," "methodologies" and "computations" that Oracle is referring.

OFCCP objects to this Interrogatory as overbroad, unduly burdensome, oppressive, not proportional to the needs of the case with respect to the term "all facts" because this term is not confined to the principal or material facts of the case, but seeks the identity of each and every fact, however minor, that may relate to the case.

OFCCP further objects to producing any in-house statistical analyses performed to include the data, methodology and computations that OFCCP employed. This information is protected under the various privileges asserted above, is irrelevant, and is not proportional to the needs of the case.

To the extent that the following objection that Defendant used during written discovery is a valid objection since the parties are meeting and conferring about it: the request/Interrogatory "requires [the party answering the written discovery] to refer to materials outside of the request itself," OFCCP makes this objection here because this Interrogatory referred to materials outside of the Interrogatory itself.

Subject to and without waiving the foregoing objections, OFCCP incorporates herein its responses to Interrogatory Nos. 2, 12, 14 and 15, its statements in the Amended Complaint and refers Oracle to the responsive documents that it produced during discovery, including, but not limited to, the NOV and Attachment, and the compensation database that Oracle provided to OFCCP for the 2014 snapshot. The compensation database provided to OFCCP by Oracle lists the names of White employees in the Information Technology, Support, and Product Development lines of business, as well as their job titles that OFCCP alleges were comparable White employees in similar roles to Asian employees based on the snapshot of data Oracle provided as of January 1, 2014. The compensation database provided to OFCCP by Oracle also lists the names of Asians in the Product Development line of business, as well as their job titles, that OFCCP alleges were victims of discrimination based on the snapshot of data Oracle provided as of January 1, 2014. OFCCP further responds that during the compliance review, OFCCP evaluated and analyzed Oracle's compensation information and found statistically significant pay disparities adverse to Asian employees after controlling for legitimate explanatory factors in the Product Development line of business. Within this line of business, OFCCP controlled for the following factors: job title, full-time status, exempt status, global career level, job specialty, estimated prior work experience, and company tenure/Oracle work

experience. Even after controlling for such factors in the analysis, Asian employees were paid significantly less than White employees in the Product Development line of business at -6.55 standard deviations. As more data is produced, including data from 2013 and since the snapshot from January 1, 2014 through the present, OFCCP expects that additional comparable Whites, as well as Asian victims of discrimination, will be identified. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

INTERROGATORY NO. 17:

State all facts that support the allegation in Paragraph 10 of the Amended Complaint, that "Oracle utilized . . . a recruiting and hiring process that discriminates against [non-Asian] applicants in favor of Asian applicants, . . . based upon race for positions in the [PT1] job group and Product Development line of business" at HQCA.

RESPONSE:

OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. *See* cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as

premature because OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information responsive only to a fraction of OFCCP's discovery requests. Furthermore, OFCCP objects to this premature Interrogatory because Oracle is attempting to benefit from its unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP's ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

OFCCP objects to this Interrogatory as overly overbroad, unduly burdensome, oppressive, not relevant, and not proportional to the needs of the case with respect to the term "all facts" because this term is not confined to the principal or material facts of the case, but seeks the identity of each and every fact, however minor, that may relate to the case.

Subject to and without waiving the foregoing objections, OFCCP incorporates its statements in the Amended Complaint and refers Oracle to the responsive documents that it produced during discovery, including, but not limited to, the NOV and Attachment, and the hiring databases that Oracle provided to OFCCP. OFCCP further responds that that upon initiating a compliance review of Oracle's headquarters in Redwood Shores, California, OFCCP conducted a comprehensive analysis and evaluation of the hiring and employment practices of Oracle, the written affirmative action program (AAP), and the results of the affirmative action efforts undertaken by Oracle, including a desk audit, on-site review and off-site analysis.

Specifically, OFCCP analyzed and evaluated Oracle's AAP and supporting documentation, and other documents related to the contractor's personnel policies and employment actions that may be relevant to a determination of whether Oracle complied with the requirements of the Executive Order, VEVRAA, Section 503 and their implementing regulations, including but not limited to: employment policies, practices, records, and actions; management, human resources, non-management employee, and former employee statements; employee complaints; one-year of individual employee compensation data and other evidence; Labor Condition Applications; Oracle's compliance history by reviewing OFCCP internal database system, and review any information received from EEOC, State or local FEP, and/or other labor and employment agencies, such as the Department of Labor's Veterans' Employment and Training Service and Wage and Hour Division, and publically available company information; and Oracle's hiring data, workforce data and appropriate labor market workforce availability statistics. OFCCP also obtained and analyzed any complaints filed against Oracle through the Equal Employment Opportunity Commission (EEOC), the State and/or Local Fair Employment Practice (FEP) agency, and/or other government agencies. Additionally, OFCCP requested additional information from Oracle during the compliance review that Oracle withheld (*see* Amended Complaint ¶¶ 11-15) that is relevant to a

determination of whether Oracle complied with the requirements of the Executive Order and the regulations.

During the compliance review of Oracle headquarters, OFCCP evaluated and analyzed Oracle's recruiting and hiring information and evidence gathered in the investigation and found statistically significant hiring disparities based upon race. OFCCP used U.S. Census data and other workforce data reflecting the potential applicant and hiring pools to evaluate recruiting and hiring decisions for U.S. jobs. This data use is consistent with Title VII and relevant case law to perform this analysis because it was inappropriate to use Oracle's pools.

Specifically, an analysis of Oracle's Professional Technical 1, Individual Contributor ("PT1") applicant data uncovered gross disparities between the expected applicant rate (availability) and the actual applicant rate. In these entry-level technical roles, the Asian applicant rate was over 75%, compared to less than 30% in the available workforce in the relevant labor market. Among Oracle's college applicants, the overrepresentation of Asians was even more extreme: the Asian applicant rate was 85% in 2013 and 92% in 2014. Based upon this data and OFCCP's analysis of Oracle's applicant data and appropriate workforce availability statistics, OFCCP found that Oracle favored Asian applicants, particularly Asian Indians, in recruiting at a standard deviation as significant as +85 and found race disparities in Oracle's recruiting practices against African American, Hispanic and White applicants.

Similarly, OFCCP found gross disparities between the available workforce in the relevant U.S. labor market and Oracle's hires in PT1. In PT1 roles, OFCCP found race disparities in Oracle's hiring practices against African American, Hispanic and White applicants. Notably, even with such a skewed applicant pool in favor of Asians, Oracle's Asian hiring rate significantly exceeded it -- by more than 6% . Compared to approximately 75% Asian applicants (and 74% Asian incumbents), Oracle hired over 82% Asians in PT1 roles during the review period. OFCCP's analysis of Oracle's hiring data and appropriate workforce

availability statistics show that Oracle favored Asian applicants, particularly Asian Indians, in hiring at a standard deviation as significant as +30.

Additional evidence, including anecdotal evidence, also reinforces that these gross statistical findings are not due to chance. OFCCP obtained statements from confidential sources evincing Oracle's reputation as favoring Asians, specifically Asian Indians. Additionally, Oracle's reputation is consistent with its recruiting efforts for engineering roles, which target Asian Indians. Oracle's recruiting priorities on its website has it directly recruiting entry-level software positions from India despite the oversupply of STEM graduates in the United States.

Furthermore, Oracle has a longstanding and well-known preference of sponsoring H1B visas almost exclusively for employees from Asia and particularly India. Over 92% of all of Oracle's H1B employees are Asian. Such preference is most pronounced in entry-level technical roles (or PT1 roles). Nearly one third of Oracle's PT1 workforce are H1B employees, compared to 13% of Oracle's overall workforce. Across Oracle headquarters, approximately 90% of H1B employees work in PT1 roles.

Moreover, despite this heavy concentration of Asians in Oracle's workforce, Oracle relied on word-of-mouth recruiting practices, which further perpetuated already existing disparities. In PT1, most successful employment referrals (or referrals that lead to a hire) originate from Asians. For technical jobs, approximately 74% of successful referrals come from PT1 employees, and approximately 80% of the referrals come from Asians.

Thus, based upon the analyses conducted and the evidence gathered during the compliance evaluation, OFCCP found that Oracle recruited, selected, and hired Asian applicants, particularly Asian Indians, for PT1 roles at a rate significantly greater than their non-Asian counterparts and Oracle's recruiting and hiring practices resulted in discrimination against African American, Hispanic, and White applicants. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.